

Order

Michigan Supreme Court
Lansing, Michigan

March 9, 2018

Stephen J. Markman,
Chief Justice

155856

Brian K. Zahra
Bridget M. McCormack
David F. Viviano
Richard H. Bernstein
Kurtis T. Wilder
Elizabeth T. Clement,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 155856
COA: 337343
Berrien CC: 04-404393-FC

RODNEY ALLAN HUBBARD,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the May 4, 2017 order of the Court of Appeals is considered, and it is DENIED, because the defendant has failed to meet the burden of establishing entitlement to relief under MCR 6.508(D).

MARKMAN, C.J., (*concurring*).

On defendant's direct appeal, I concurred in the order denying leave to appeal but observed "that this Court, in an appropriate case, should revisit its conclusion in *People v Tobey*, 401 Mich 141, 148 (1977), that voiceprint evidence is inadmissible because it has not 'achieved general scientific acceptance as a reliable identification device'" *People v Hubbard*, 480 Mich 898 (2007) (MARKMAN, J., concurring). I noted that at that time, "[s]ince *Tobey* was decided, 11 other states have addressed the admissibility of voiceprint evidence: five states have admitted such evidence, . . . and six states have rejected such evidence" *Id.* I continue to believe that this Court at some point should revisit the admissibility of voiceprint evidence; however, in my judgment, this is not the case to do so because defendant previously submitted the same voiceprint analysis in conjunction with his unsuccessful second motion for relief from judgment. Therefore, defendant cannot receive relief on that basis in the instant motion for relief from judgment. See MCR 6.508(D)(2). Accordingly, I concur in this Court's order denying leave to appeal.



s0306

I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

March 9, 2018

Clerk